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Fence (By-law No. 2003-462)

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Amendments

This is a consolidation of the City of Ottawa Fence By-law No. 2003-462. This version contains the following amending By-laws:

- 2003-526
- 2008-003
- 2009-259
- 2013-083
- 2018-161

This consolidation of the By-law is current to May 9, 2018.

Introduction

A by-law of the City of Ottawa respecting the erection, height and maintenance of fences.

The Council of the City of Ottawa hereby enacts as follows:

Section 1 – Definitions

In this by-law,

“**Agricultural operation**” means an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward,

“**Building**” means any structure used or intended for supporting or sheltering any use or occupancy,

“**City**” means the municipal corporation of the City of Ottawa or the geographic area as the context requires,

“**Corner lot**” means a lot situated at the intersection of two or more streets or at the intersection of two parts of the same street which parts have an interior angle of intersection of not more than one hundred and thirty-five (135) degrees,

“**Council**” means the Council of the City of Ottawa,

“**Director of By-law Services**” means the person occupying the position of Manager, By-law and Regulatory Services, in the Emergency and Protective Services Department of the City of Ottawa, or authorized representative, **(By-law 2009-259)**

“**Erect**” includes alter, construct, place, relocate and any work preparatory to erection, and “**erection**” has a corresponding meaning,

“**Fence**” means any freestanding structure, wall or barrier other than a building, erected at grade for the purpose of delineating the boundaries of a property, restricting ingress to or egress from a property, or providing security or protection to property, and does not include a hedge, **(By-law 2018-161)**

“**Finished side**” means that the fence construction is completed, where either both sides of the fence have the same appearance, or the side that is not facing the fence owner’s property is free of evidence of structural components, such as posts ,and is the most aesthetically attractive, **(By-law 2018-161)**

“**Gate**” means any swinging or sliding barrier used to fill in or close an access in a fence,

“**Grade**” means the elevation of the finished level of the ground adjoining the fence exclusive of any artificial embankments or berms;

“**Graffiti**” means one or more letters, symbols, etchings, figures, inscriptions, stains howsoever made or otherwise affixed to a property or other markings that disfigure or deface a property but does not include a mural sign permitted in accordance with By-law No. 2005-439, the Permanent Signs on Private Property By-law; (By-law No. 2008-003)

“**Highway**” means a common and public highway and includes any bridge, trestle or viaduct or other structure forming part of the highway and except as otherwise provided includes a portion of a highway;

“**Lot**” means all contiguous land under one ownership;

“**Lot line**” means the boundary of a lot;

“**Lot line, front**” means;

(1) in the case of an interior lot, the lot line dividing the lot from the street,

(2) in the case of a corner lot, the shorter lot line abutting a street shall be deemed the front lot line,

(3) in the case of a through lot line, the lot line used for the principal entrance shall be deemed the front lot line,

“**Lot line, rear**” means the lot line furthest from and opposite the front lot line,

“**Lot line, side**” means a lot line other than a front lot line or a rear lot line,

“**Non-residential property**” means land used for other than residential purposes and includes land used for both residential and other purposes,

“**Old municipality**” means the old municipalities of the City of Cumberland, the City of Gloucester, the Township of Goulbourn, the City of Kanata, the City of Nepean, the Township of Osgoode, the City of Ottawa, the Township of Rideau, the Village of Rockcliffe Park, the City of Vanier and the Township of West Carleton, and “old municipalities” has a similar meaning,

“**Person**” means an individual, firm, corporation, association or partnership,

“**Pool Enclosure By-law**” means the Pool Enclosure By-law of the City of Ottawa, being By-law No. 2013-39, as amended, and any successor by-law thereto; (Bylaw No. 2013-083)

“**Principal building**” means the building in which the principal use of the lot is conducted,

“**Residential property**” means land used for residential purposes and includes vacant land abutting residential property,

“**Salvage yard**” means land used for saving and utilization of waste paper, scrap metal, vehicles, appliances or other materials,

“**Urban arterial**” means the highways designated as arterial on Schedule “E”, Urban Road Network, to the City of Ottawa Official Plan as adopted by City Council in May 2003,

“**Visibility triangle**” means the area within a triangle formed by measuring a prescribed distance along two specified intersecting lines and a third line joining the terminal points of the two measured lines,

“**Yard**” means any open space located between the nearest point of a building and a lot line,

“**Yard, front**” means a yard extending across the full width of a lot between the front lot line and the nearest point of the principal building on the lot,

“**Yard, rear**” means a yard extending across the full width of the lot between the rear lot line and the nearest point of the principal building on the lot,

“**Yard, side**” means a yard extending from the front yard to the rear yard between the side lot line and the nearest point of the principal building on the lot.

Section 2 – Severability

It is declared that if any section, subsection or part or parts thereof, be declared by any Court of Law to be bad, illegal or ultra vires, such section, subsection or part or parts shall be deemed to be severable, and all parts hereof are declared to be separate and independent and enacted as such.

Section 3 – Calculation of Height

The height of a fence at any given point shall be measured from the grade at the base of the fence, as follows:

- (1) to the top of the fence where erected at grade and where there is no grade difference between the two sides of the fence;
- (2) from the higher grade to the top of the fence where erected at grade and there is a grade difference between the two sides of the fence.

Section 4 – Visibility Triangles

- (1) In the case of a corner lot, no person shall erect a fence or cause a fence to be erected that is greater than seventy-five centimetres (75 cm) in height at any point within a visibility triangle formed by measuring three metres (3 m) along the lot lines from the intersection of any two highways or at the intersection of two parts of the same highway meeting at an angle of not more than one hundred and thirty-five (135) degrees;
- (2) In the case of any lot, no person shall erect a fence or cause a fence to be erected that is greater than seventy-five centimetres (75 cm) in height within a visibility triangle formed by measuring two metres (2 m) along the lot line and a driveway, at the intersection of the driveway and the lot line abutting the highway.

Sections 5 to 7 – Height Restrictions – Residential Property

Section 5

Subject to Section 4, on residential property no person shall erect a fence or cause a fence to be erected that is higher than;
(By-law 2018-161)

- (1) one metre (1 m) in height in a yard, front;
- (2) two hundred and thirteen centimetres (213 cm) in height in any yard other than a yard, front.

Section 6

Despite Section 5, in yards, side and yards, rear, **(By-law 2018-161)**

- (1) gates may exceed the height restrictions by a maximum of thirty centimetres (30 cm);
- (2) archways forming part of an entrance may exceed the height restrictions to a maximum of two hundred and fifty centimetres (250 cm); and
- (3) decorative caps on structural posts may exceed the height restrictions to a maximum of fifteen centimetres (15 cm).

Section 7

Despite Section 5, where a residential property abuts an urban arterial highway as prescribed in the Official Plan and where the grade level at the crown of the highway is higher than the grade at the base of the fence, the maximum height restriction with respect to that portion of fence immediately contiguous to the highway shall be measured from the crown of the highway to the top of the fence, but in no event shall such portion of the fence immediately contiguous to the highway exceed a height of three metres (3 m) in a yard, rear or yard, side as measured from the base to the top of the fence. **(By-law 2018-161)**

Sections 8 and 9 – Height Restrictions – Non-Residential Property

Section 8

On non-residential properties, no person shall erect a fence or cause a fence to be erected that is higher than three metres (3 m).

Section 9

- (1) Every owner or operator of a salvage yard shall erect or cause to be erected a fence of solid materials and uniform construction around the salvage yard;
- (2) The minimum height of a fence erected pursuant to subsection (1) shall be one hundred and eighty centimetres (180 cm). (By-law No. 2003-526)

Section 10 – Exemptions

Despite Section 5, where it is considered necessary for the health or safety of the public, the Director of By-law Services may permit the construction of a fence higher than the height specified in the by-law on residential property provided that the height of the fence does not exceed three metres (3 m) and the height of the fence is necessary to ensure public safety. **(By-law 2018-161)**

Sections 11 to 18 – General Regulations

Section 11

No person shall erect a fence or cause a fence to be erected unless the fence is,

- (1) stable;
- (2) vertical;
- (3) made of materials of good quality;
- (4) suitable for the purpose; and
- (5) constructed and supported in a manner commensurate with the design of the entire fence.

Section 12

Every person who erects a fence or causes a fence to be erected shall keep such fence,

- (1) in good repair;
- (2) in a safe and structurally sound condition;
- (3) free from accident hazards; and
- (4) protected by paint, preservatives or other weather-resistant material, except for wooden fences made of cedar, redwood or treated wood.

Section 13

No person shall erect a fence or cause a fence to be erected,

- (1) which is wholly or partly constructed of barbed wire, chicken wire or other barbed or sharp material;
- (2) which contains a device for projecting an electric current; or
- (3) in a manner that renders a swimming pool enclosure non-conforming with the requirements of the Pool Enclosure By-law. (By-law No. 2013-083)

Section 14

No person shall erect a fence or cause a fence to be erected on City property, including any public highway.

Section 15

No person shall erect a fence or cause a fence to be erected unless the fence is constructed and finished in such a manner so as to present the finished side thereof, toward the public street and the neighbouring properties. **(By-law 2018-161)**

Section 16

Despite paragraph (a) of Section 13, where required for the safety or protection of nonresidential property, the portion of any fence above two hundred and fifty centimetres (250 cm) may be wholly or partially constructed of barbed wire. **(By-law 2018-161)**

Section 17

Every person, when necessary, shall:

- (1) remove graffiti on the exterior surfaces of fences; or (By-law No. 2008-003)
- (2) refinish the surface of the fence. (By-law No. 2003-526)

Section 18

No person shall erect or cause to be erected, on residential property or on lot lines of non-residential property abutting residential property, a chain link fence that is not vinyl or powder coated.

Sections 19 to 22 – Non-application of By-law

Section 19

Section 8 does not apply to a fence erected upon or abutting land which is used for a railway right-of-way, or for hydro, telephone or utility installations, or for public work installations which are hazardous to the public. **(By-law 2018-161)**

Section 20

Sections 5 and 8 do not apply; **(By-law 2018-161)**

- (1) to a noise attenuation fence erected along Highway 417 or erected with the approval of the City under an agreement,
- (2) to a fence required by the City as a condition of a subdivision approval or site plan approval.

Section 21

Section 5 and Section 8 do not apply to a fence erected to enclose a tennis court and any other public recreational facility, provided that the fence is of chain link construction. **(By-law 2018-161)**

Section 22

The provisions of this by-law do not apply to a fence erected on lands used for an agricultural operation.

Sections 23 and 24 – Transition

Section 23

Nothing in this by-law shall prevent the continued use and maintenance of a fence if such fence was lawfully erected in conformity with the provisions of a fence by-law of an old municipality prior to the effective date of this by-law.

Section 24

Any exemptions approved under a fence by-law of an old municipality continue in force and shall be deemed to be issued under this by-law for regulatory and enforcement purposes.

Section 25 – General Prohibition

No person shall erect, own, or maintain, or cause or permit the erection or maintenance of any fence on private property in the City that does not comply with this by-law and any other applicable law.

Section 26 – Offence

Any person who contravenes any of the provisions of this by-law is guilty of an offence.

Sections 27 and 28 – Penalties

Section 27

Every person who is convicted of an offence is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, Chap. p. 33, as amended.

Section 28

When a person has been convicted of an offence under this by-law,

- (1) the Ontario Court of Justice; or
- (2) any court of competent jurisdiction thereafter may, in addition to any penalty imposed on the person convicted, make an order prohibiting the continuation or repetition of the offence by the person convicted.

Section 29 – Administration

This by-law shall be enforced by the Municipal Law Enforcement Officers of the City.

Section 30 – Repeal

The following by-laws or portions of by-laws of the old municipalities are repealed:

- (1) By-law No. 121-88 of the Corporation of the Township of Cumberland entitled “Being a By-law of the Corporation of the Township of Cumberland respecting the erection and maintenance of fences”, as amended;
- (2) The following provisions of By-law No. 81 of 1998 of the Corporation of the City of Gloucester entitled “A By-law concerning the height and description of lawful fences and retaining walls for residential zones”, as amended:
 - (a) Sections 4 to 8 inclusive;
 - (b) the words “fence and” where they appear in the first line of Section 11;
 - (c) the word “fence” and the expression “, or combination thereof” where they occur in Section 12;
 - (d) the expressions “any fence or” and “the fence or” where they occur in Section 13; and

(e) Section 14;

- (3) By-law 38-91 of the Corporation of the Township of Goulbourn entitled “Being a By-law respecting the erection and maintenance of fences”, as amended;
- (4) By-law No. 74-94 of The Corporation of the City of Nepean entitled “Being a by-law of the Corporation of the City of Nepean respecting the erection, height and maintenance of fences”, as amended;
- (5) By-law No. 83-23 of the Corporation of the Village of Rockcliffe Park entitled “A by-law of the Corporation of the Village of Rockcliffe Park prescribing the height and description of fences and gates”, as amended;
- (6) By-law No. 3432 of the Corporation of the City of Vanier entitled “Being a By-law of the Corporation of the City of Vanier respecting the erection and maintenance of fences”, as amended; and
- (7) By-law Number 104-89 of the Corporation of the City of Kanata entitled “Being a By-law of the Corporation of the City of Kanata respecting the height and description of lawful fences”, as amended.

Section 31 – Short Title

This by-law may be referred to as the “Fence By-law”.

Section 32 – Effective Date

This by-law shall come into effect on January 1, 2004.

ENACTED AND PASSED this 24th day of September, 2003.